



The following constitutes the order of the court.
Signed August 14, 2015


William J. Lafferty, III
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

In re

Edward Lyle James,
Julie Lynn James,

Debtors.

No. 12-48618

Chapter 7

MEMORANDUM AFTER HEARING ON APPLICATION FOR COMPENSATION

The Chapter 7 Standing Trustee filed a Final Report and an Application for Compensation on May 26, 2015 (Doc. 158).

Brenda Michelson filed a response, and requested payment of a real estate broker fee in connection with the sale of the Debtors' real property (Doc. 165). Debtors' former counsel, Jan Van Dusen, also filed two declarations in response to the Trustee's Application for Compensation (Doc. 164, 170). A hearing was held in the above captioned case on August 13,

1 2015. The appearances made at the hearing are noted on the
2 record. At the conclusion of the hearing, the court approved
3 the Trustee's Application.

4 Although the court concluded it was without power to award
5 fees to the real estate broker on an administrative expense
6 basis because claimant was never hired as a professional and
7 could not be hired as a professional, the court suggested that
8 it might be possible to pay the fee as an unsecured claim on
9 the theory that there is a basis for the claim for the services
10 rendered and there is an argument that the broker need not have
11 been employed pursuant to 11 U.S.C. § 327. Although the court
12 indicated a willingness to extend the claims bar date which
13 expired in the chapter 7 case on March 14, 2014 (Doc. 113), to
14 permit broker to file an unsecured claim (a resolution with
15 which the Trustee had no objection), on further reflection, the
16 court notes that the "Debtors' Supplemental Application to Pay
17 Broker the Funds Withheld by Trustee" filed on February 21,
18 2014 (prior to the claims bar date) appears to satisfy the
19 requirements for an informal proof of claim in the case law in
20 this circuit. See *Cnty. Of Napa v. Franciscan Vineyards (In re*
21 *Franciscan Vineyards)*, 597 F.2d 181, 182-83 (9th Cir. 1979);
22 *Sambo's Restaurants v. Wheeler (In re Sambo's)*, 754 F.2d 811,
23
24
25
26
27
28

1 815 (9th Cir. 1984). Accordingly the court will not require
2 the filing of any proof of claim by the broker.

3 ***END OF MEMORANDUM***
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COURT SERVICE LIST

Edward Lyle James

Julie Lynn James

P.O. BOX 472

Byron, CA 94514

John Kendall

945 Morning Star Dr.

Sonora, CA 95370

Mariam S. Marshall

Law Offices of Marshall and Ramos

350 Frank H. Ogawa Plaza #603

Oakland, CA 94612

Brenda Michelson

758 Franklin Dr.

Brentwood, CA 94513-6465

Jan Van Dusen

1501 Magnolia St.

Oakland, CA 94607

U.S. Trustee

Office of the U.S. Trustee/Oak

Office of the U.S. Trustee

1301 Clay St. #690N